

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CIPRIANO CARDENAS-URIARTE,

Petitioner,

v.

Civ. No. 13-568 JAP/GBW

UNITED STATES,

Respondent.

ORDER GRANTING PLAINTIFF'S MOTION TO AMEND

This matter comes before the Court on Plaintiff's Formal Notification of Supplemental Brief. *Doc. 7*. The Court construes the document as a motion for leave to amend Petitioner's § 2255 petition (*doc. 1*) and grants it.

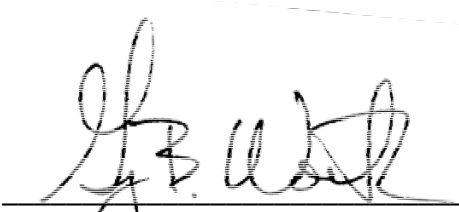
Because Respondent has not yet filed an answer, Petitioner may amend his pleading once as a matter of course. *See* Fed. R. Civ. P. 15(a)(1)(B); *see also Witte v. Sloan*, 250 Fed. Appx. 250, 255 (10th Cir. 2007).

Petitioner is proceeding *pro se*, so his pleadings are construed liberally. *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). It appears to the Court that the allegations contained within the Supplemental Brief are meant to supplement, not replace, the allegations within Petitioner's original § 2255 petition. Therefore, the Court will proceed as if Plaintiff had filed a single Amended Petition which contains the allegations of both the original petition and Plaintiff's Supplemental Brief.

Wherefore, IT IS HEREBY ORDERED that Petitioners Supplemental Brief, (*doc. 7*), is construed as a motion for leave to amend his petition and is GRANTED.

IT IS FURTHER ORDERED that the allegations in Petitioner's original petition (*doc. 1*) and his Supplemental Brief (*doc. 7*) shall be read together and deemed Plaintiff's Amended Petition.

IT IS FURTHER ORDERED that Respondent's answer, due September 27, 2013, shall address all allegations contained in the Amended Petition as described above.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE